



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, CA 94105-3901

June 2, 2014

**Via Email and U.S. Mail**

Michael A. Francis, Esq.  
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Re: Omega Chemical Corporation Superfund Site in Los Angeles County, CA;  
General Notice Letter issued to Continental Heat Treating, Inc., regarding  
property at 10643 Norwalk Boulevard, Santa Fe Springs, CA

Dear Mr. Francis:

Thank you for your January 24, 2014 letter responding to the U.S. Environmental Protection Agency (EPA)'s December 18, 2013 general notice letter to Continental Heat Treating, Inc. (CHT), regarding its liability for cleanup of groundwater contamination (OU2) at the Omega Chemical Corporation Superfund Site in Los Angeles County, California (Site).

In your letter, you made several assertions regarding EPA's 2005 Administrative Order on Consent (AOC), a settlement between EPA and certain *de minimis* potentially responsible parties (PRPs), in which CHT participated. We strongly disagree that the AOC resolved CHT's liability for the property at 10643 Norwalk Boulevard, in Santa Fe Springs (Property), and would welcome the opportunity to arrange a telephone conference or in-person meeting with you to further discuss CHT's liability and participation in OU2 cleanup.

The AOC did not discharge any party's liability for that party's ownership and/or operation of a facility downgradient of the former Omega facility, such as CHT's liability as an operator at the Property at the time of a disposal, and as the current owner of the Property. An argument that the "Site", to which the AOC's covenants extend, somehow also encompasses the Property, would be undercut by the very definition of the "Site" in Paragraph 6.o, which refers to the map shown in Appendix C to the AOC. Clearly, the Property is not physically encompassed within the boundaries of that map.

Likewise, an argument that the "Site" included other potential areas where contamination might later be discovered or come to be located also would fail due to the AOC's requirement in Paragraph 25 that a party certify that it accurately disclosed to EPA all information in its possession relating in any way "to the ownership, operation, or control of the Site, or to the ownership, possession, generation,

treatment, transportation, storage or disposal of a hazardous substance, pollutant, or contamination at or in connection with the Site.” The United States’ covenant not to sue a Respondent for future liability (Paragraph 28) was conditioned on that Respondent’s performance of all obligations, including the certification. We know of no information provided by CHT about the downgradient Property when asked to certify it had searched for and disclosed to EPA all information relating to the Site. The only information exchanged between the parties was information related to CHT’s role as an *arranger* (also referred to as a generator) who sent waste to the Omega facility.

This is consistent with the parties’ undisputed understanding at the time of the AOC that the clear intent of the AOC was to provide a release for certain parties whose liability was based on their status as arrangers under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Section 107(a)(3), 42 U.S.C. § 9607(a)(3). As reflected in correspondence between EPA and other *de minimis* parties in the months leading up to the settlement (including Mr. James Stull, on behalf of CHT), a PRP qualifying as a *de minimis* party was one that sent less than ten (but more than three) tons of hazardous waste to the former Omega facility. Each *de minimis* party’s payment was based on its share, by weight, of the total waste disposed of at the Omega facility, multiplied by EPA’s estimated total Sitewide response costs.

EPA believes that the Property has contributed to OU2 groundwater contamination and that CHT is a PRP under CERCLA Section 107(a)(1), based on its status as a current owner and operator of a CERCLA facility, and Section 107(a)(2), as an operator at the time of a disposal.

We look forward to further discussing this matter with you. If you have any questions about this letter, please contact me at (415) 972-3909 or [berninger.stephen@epa.gov](mailto:berninger.stephen@epa.gov).

Very truly yours,



Steve Berninger  
Assistant Regional Counsel  
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cc: Mr. James Stull, CHT President ([jcstull@continentalht.com](mailto:jcstull@continentalht.com))  
Deborah Gitin, U.S. Department of Justice (via email)  
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